

AMENDED IN ASSEMBLY AUGUST 4, 2014

AMENDED IN ASSEMBLY JUNE 25, 2014

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE MAY 6, 2014

## SENATE BILL

**No. 1283**

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**Introduced by Senator Galgiani**

February 21, 2014

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An act to amend, repeal, and add Sections 11357.5 and 11375.5 of the Health and Safety Code, ~~and to amend, repeal, and add Section 1210 of the Penal Code,~~ relating to controlled substances.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1283, as amended, Galgiani. Controlled substances.

~~(1) Existing~~

*Existing* law makes it a misdemeanor to sell, dispense, distribute, furnish, administer, or give, to offer to sell, dispense, distribute, furnish, administer, or give, or to possess for sale, any synthetic stimulant compound or any specified synthetic stimulant derivative, including naphthylpyrovalerone and 2-amino-1-phenyl-1-propanone.

Existing law makes it a misdemeanor to sell, dispense, distribute, furnish, administer, or give, or offer to sell, dispense, distribute, furnish, administer, or give, or possess for sale any synthetic cannabinoid compound or any synthetic cannabinoid derivative.

This bill ~~would~~ *would, beginning January 1, 2016,* also make the use or possession of those specified synthetic stimulant compounds or synthetic stimulant derivatives, or any synthetic cannabinoid compound or any synthetic cannabinoid derivative an infraction, punishable by a

fine not exceeding \$250. By creating new crimes, this bill would impose a state-mandated local program.

~~The bill would request the Luskin School of Public Affairs at the University of California, Los Angeles, or would require Judicial Council to contract with another entity if the university does not comply with that request, to design an evidence-based education program and treatment model for participation in by individuals convicted of the above-described crimes, as provided. The bill would require Judicial Council to approve the program and treatment model upon a finding that courts can successfully implement the program and education model.~~

~~The bill would authorize a defendant, in his or her discretion, to elect to participate in the evidence-based education program and treatment model, if convicted of the above-described crimes, in which case the execution of sentence would be stayed. The bill would specify that upon successful completion of the program, the case against the defendant would be dismissed.~~

~~(2) Existing law, the Substance Abuse and Crime Prevention Act of 2000, enacted by Proposition 36 at the November 7, 2000, general election, requires any person convicted of a nonviolent drug possession offense to receive probation. As a condition of probation, a defendant is required to participate in, and complete, an appropriate drug treatment program.~~

~~Existing law defines “nonviolent drug possession offense” for purposes of the act to mean the unlawful personal use, possession for personal use, or transportation for personal use of a specified controlled substance, or being under the influence of a controlled substance, as specified.~~

~~This bill would additionally define a “nonviolent drug possession offense” to include the use or possession of a synthetic stimulant compound, synthetic stimulant derivative, synthetic cannabinoid compound, or synthetic cannabinoid derivative. By requiring counties to supervise additional persons on probation, this bill would impose a state-mandated local program.~~

~~The bill would make its provisions operative on January 1, 2016.~~

~~(3)~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11357.5 of the Health and Safety Code  
2 is amended to read:

3 11357.5. (a) Every person who sells, dispenses, distributes,  
4 furnishes, administers, or gives, or offers to sell, dispense,  
5 distribute, furnish, administer, or give, or possesses for sale any  
6 synthetic cannabinoid compound, or any synthetic cannabinoid  
7 derivative, to any person, is guilty of a ~~misdemeanor~~ *misdemeanor*;  
8 punishable by imprisonment in a county jail not exceeding six  
9 months, or by a fine not exceeding one thousand dollars (\$1,000),  
10 or by both that fine and imprisonment.

11 (b) As used in this section, the term “synthetic cannabinoid  
12 compound” refers to any of the following substances:

13 (1) 1-pentyl-3-(1-naphthoyl)indole (JWH-018).

14 (2) 1-butyl-3-(1-naphthoyl)indole (JWH-073).

15 (3) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole  
16 (JWH-200).

17 (4) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol  
18 (CP-47,497).

19 (5) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol  
20 (cannabicyclohexanol; CP-47,497 C8 homologue).

21 (c) This section shall remain in effect only until January 1, 2016,  
22 and as of that date is repealed, unless a later enacted statute, that  
23 is enacted before January 1, 2016, deletes or extends that date.

24 SEC. 2. Section 11357.5 is added to the Health and Safety  
25 Code, to read:

26 11357.5. (a) Every person who sells, dispenses, distributes,  
27 furnishes, administers, or gives, or offers to sell, dispense,  
28 distribute, furnish, administer, or give, or possesses for sale any  
29 synthetic cannabinoid compound, or any synthetic cannabinoid  
30 derivative, to any person, is guilty of a ~~misdemeanor~~ *misdemeanor*;  
31 punishable by imprisonment in a county jail not to exceed six  
32 months, or by a fine not to exceed one thousand dollars (\$1,000),  
33 or by both that fine and imprisonment.

(b) ~~(1)~~—Every person who uses or possesses any synthetic cannabinoid compound, or any synthetic cannabinoid derivative, is guilty of an ~~infraction~~ *infraction*, punishable by a fine not to exceed two hundred fifty dollars (\$250).

~~(2) A defendant convicted of a violation of paragraph (1), may, in his or her discretion, elect to participate in the education program designed and implemented pursuant to paragraph (3). If that election is made, execution of the sentence imposed pursuant to paragraph (1) shall be stayed. Upon successful completion of the education program, the case against the defendant shall be dismissed.~~

~~(3) (A) The Luskin School of Public Affairs at the University of California, Los Angeles is requested to design, or designate another entity to design, an evidence-based education program and treatment model for individuals convicted of a violation of paragraph (1) or a violation of paragraph (1) of subdivision (b) of Section 11375.5. If the university does not comply with that request, the Judicial Council shall contract with another entity to design that education program and treatment model.~~

~~(B) Prior to implementing the education program and treatment model designed pursuant to subparagraph (A), the Judicial Council shall approve that education program and treatment model, upon finding that courts can successfully implement it. During the approval process, the Judicial Council may consult with the Substance Use Disorder Services Divisions of the State Department of Health Care Services.~~

~~(C) Upon approval of the education program and treatment model pursuant to subparagraph (B), the Judicial Council shall assist courts in obtaining educational materials required to implement, and in implementing, that education program and treatment model. During the implementation process, the Judicial Council may consult with the Substance Use Disorder Services Divisions of the State Department of Health Care Services.~~

(c) As used in this section, the term “synthetic cannabinoid compound” refers to any of the following substances:

(1) 1-pentyl-3-(1-naphthoyl)indole (JWH-018).

(2) 1-butyl-3-(1-naphthoyl)indole (JWH-073).

(3) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200).

(4) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497).

(5) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol; CP-47,497 C8 homologue).

(d) This section shall become operative on January 1, 2016.

SEC. 3. Section 11375.5 of the Health and Safety Code is amended to read:

11375.5. (a) Every person who sells, dispenses, distributes, furnishes, administers, or gives, or offers to sell, dispense, distribute, furnish, administer, or give, any synthetic stimulant compound specified in subdivision (b), or any synthetic stimulant derivative, to any person, or who possesses that compound or derivative for sale, is guilty of a ~~misdemeanor~~ *misdemeanor*, punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) Unless specifically excepted, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, or unless listed in another schedule, subdivision (a) applies to any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers whenever the existence of such salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers is possible within any of the following specific chemical designations:

(1) Naphthylpyrovalerone whether or not further substituted in the naphthyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether or not further substituted in the naphthyl ring by one or more other univalent substituents, or whether or not further substituted in the carbon chain at the 3-, 4-, or 5-position with an alkyl substituent.

(2) 2-amino-1-phenyl-1-propanone (cathinone) or variation in any of the following ways:

(A) By substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents.

(B) By substitution at the 3-position with an alkyl substituent.

1 (C) By substitution at the nitrogen atom with alkyl, dialkyl, or  
2 benzyl groups, or by inclusion of the nitrogen atom in a cyclic  
3 structure.

4 (c) This section shall not prohibit prosecution under any other  
5 provision of law.

6 (d) This section shall remain in effect only until January 1, 2016,  
7 and as of that date is repealed, unless a later enacted statute, that  
8 is enacted before January 1, 2016, deletes or extends that date.

9 SEC. 4. Section 11375.5 is added to the Health and Safety  
10 Code, to read:

11 11375.5. (a) Every person who sells, dispenses, distributes,  
12 furnishes, administers, or gives, or offers to sell, dispense,  
13 distribute, furnish, administer, or give, any synthetic stimulant  
14 compound specified in subdivision (c), or any synthetic stimulant  
15 derivative, to any person, or who possesses that compound or  
16 derivative for sale, is guilty of a ~~misdemeanor~~ *misdemeanor*,  
17 punishable by imprisonment in a county jail not to exceed six  
18 months, or by a fine not to exceed one thousand dollars (\$1,000),  
19 or by both that fine and imprisonment.

20 (b) ~~(1)~~ Every person who uses or possesses any synthetic  
21 stimulant compound specified in subdivision (c), or any synthetic  
22 stimulant derivative, is guilty of an ~~infraction~~ *infraction*, punishable  
23 by a fine not to exceed two hundred fifty dollars (\$250).

24 ~~(2) A defendant convicted of a violation of paragraph (1) may,~~  
25 ~~in his or her discretion, elect to participate in the education program~~  
26 ~~designed and implemented pursuant to paragraph (3) of subdivision~~  
27 ~~(b) of Section 11357.5. If that election is made, execution of the~~  
28 ~~sentence imposed pursuant to paragraph (1) shall be stayed. Upon~~  
29 ~~successful completion of the education program, the case against~~  
30 ~~the defendant shall be dismissed.~~

31 (c) Unless specifically excepted, or contained within a  
32 pharmaceutical product approved by the United States Food and  
33 Drug Administration, or unless listed in another schedule,  
34 subdivisions (a) and (b) apply to any material, compound, mixture,  
35 or preparation which contains any quantity of the following  
36 substances having a stimulant effect on the central nervous system,  
37 including its salts, isomers, esters, or ethers, and salts of isomers,  
38 esters, or ethers whenever the existence of such salts, isomers,  
39 esters, or ethers, and salts of isomers, esters, or ethers is possible  
40 within any of the following specific chemical designations:

(1) Naphthylpyrovalerone whether or not further substituted in the naphthyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether or not further substituted in the naphthyl ring by one or more other univalent substituents, or whether or not further substituted in the carbon chain at the 3-, 4-, or 5-position with an alkyl substituent.

(2) 2-amino-1-phenyl-1-propanone (cathinone) or variation in any of the following ways:

(A) By substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents.

(B) By substitution at the 3-position with an alkyl substituent.

(C) By substitution at the nitrogen atom with alkyl, dialkyl, or benzyl groups, or by inclusion of the nitrogen atom in a cyclic structure.

(d) This section shall not prohibit prosecution under any other provision of law.

(e) This section shall become operative on January 1, 2016.

~~SEC. 5. Section 1210 of the Penal Code is amended to read:~~

~~1210. As used in Sections 1210.1 and 3063.1 of this code, and Division 10.8 (commencing with Section 11999.4) of the Health and Safety Code, the following definitions apply:~~

~~(a) The term “nonviolent drug possession offense” means the unlawful personal use, possession for personal use, or transportation for personal use of any controlled substance identified in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code, or the offense of being under the influence of a controlled substance in violation of Section 11550 of the Health and Safety Code. The term “nonviolent drug possession offense” does not include the possession for sale, production, or manufacturing of any controlled substance and does not include violations of Section 4573.6 or 4573.8.~~

~~(b) The term “drug treatment program” or “drug treatment” means a state licensed or certified community drug treatment program, which may include one or more of the following: drug education, outpatient services, narcotic replacement therapy, residential treatment, detoxification services, and aftercare services. The term “drug treatment program” or “drug treatment” includes a drug treatment program operated under the direction of the~~

~~Veterans Health Administration of the Department of Veterans Affairs or a program specified in Section 8001. That type of program shall be eligible to provide drug treatment services without regard to the licensing or certification provisions required by this subdivision. The term “drug treatment program” or “drug treatment” does not include drug treatment programs offered in a prison or jail facility.~~

~~(c) The term “successful completion of treatment” means that a defendant who has had drug treatment imposed as a condition of probation has completed the prescribed course of drug treatment as recommended by the treatment provider and ordered by the court and, as a result, there is reasonable cause to believe that the defendant will not abuse controlled substances in the future. Completion of treatment shall not require cessation of narcotic replacement therapy.~~

~~(d) The term “misdemeanor not related to the use of drugs” means a misdemeanor that does not involve (1) the simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or (2) any activity similar to those listed in (1).~~

~~(e) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.~~

~~SEC. 6. Section 1210 is added to the Penal Code, to read:~~

~~1210. As used in Sections 1210.1 and 3063.1 of this code, and Division 10.8 (commencing with Section 11999.4) of the Health and Safety Code, the following definitions apply:~~

~~(a) The term “nonviolent drug possession offense” means the unlawful personal use, possession for personal use, or transportation for personal use of any controlled substance identified in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code, the offense of being under the influence of a controlled substance in violation of Section 11550 of the Health and Safety Code, the use or possession of a synthetic cannabinoid compound in violation of paragraph (1) of subdivision (b) of Section 11357.5 of the Health and Safety Code, or the use or possession of a synthetic stimulant compound in violation of paragraph (1) of subdivision (b) of Section 11375.5 of the Health and Safety Code. The term “nonviolent drug possession offense” does not include the possession for sale, production, or~~



1 manufacturing of any controlled substance and does not include  
2 violations of Section 4573.6 or 4573.8.

3 (b) ~~The term “drug treatment program” or “drug treatment”~~  
4 ~~means a state licensed or certified community drug treatment~~  
5 ~~program, which may include one or more of the following: drug~~  
6 ~~education, outpatient services, narcotic replacement therapy,~~  
7 ~~residential treatment, detoxification services, and aftercare services.~~  
8 ~~The term “drug treatment program” or “drug treatment” includes~~  
9 ~~a drug treatment program operated under the direction of the~~  
10 ~~Veterans Health Administration of the Department of Veterans~~  
11 ~~Affairs or a program specified in Section 8001. That type of~~  
12 ~~program shall be eligible to provide drug treatment services without~~  
13 ~~regard to the licensing or certification provisions required by this~~  
14 ~~subdivision. The term “drug treatment program” or “drug~~  
15 ~~treatment” does not include drug treatment programs offered in a~~  
16 ~~prison or jail facility.~~

17 (c) ~~The term “successful completion of treatment” means that~~  
18 ~~a defendant who has had drug treatment imposed as a condition~~  
19 ~~of probation has completed the prescribed course of drug treatment~~  
20 ~~as recommended by the treatment provider and ordered by the~~  
21 ~~court and, as a result, there is reasonable cause to believe that the~~  
22 ~~defendant will not abuse controlled substances in the future.~~  
23 ~~Completion of treatment shall not require cessation of narcotic~~  
24 ~~replacement therapy.~~

25 (d) ~~The term “misdemeanor not related to the use of drugs”~~  
26 ~~means a misdemeanor that does not involve (1) the simple~~  
27 ~~possession or use of drugs or drug paraphernalia, being present~~  
28 ~~where drugs are used, or failure to register as a drug offender, or~~  
29 ~~(2) any activity similar to those listed above.~~

30 (e) ~~This section shall become operative on January 1, 2016.~~

31 ~~SEC. 7.~~

32 *SEC. 5.* No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution because  
34 the only costs that may be incurred by a local agency or school  
35 district will be incurred because this act creates a new crime or  
36 infraction, eliminates a crime or infraction, or changes the penalty  
37 for a crime or infraction, within the meaning of Section 17556 of  
38 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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